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VIA ECF

The Honorable Ann M. Donnelly, U.S.D.J.
United States District Court for the Eastern District of New York
225 Cadman Plaza East, Courtroom 4G North
Brooklyn, New York 11201

Re: Arnel Dasrath, as Administrator of the Estate of Rexford Dasrath v. City of New York, et al., 15-cv-766-AMD-RLM

Dear Judge Donnelly:

We represent Plaintiff in the above-referenced action. We write to respectfully request that Your Honor set a date for trial as soon as practicable.

Defendants' motion, like their pre-motion letter, does not even attempt to address Plaintiff's facts, let alone provide a basis to refute the favorable inferences that Plaintiff is due as non-movant. Defendants' brief fails to even mention key pieces of Plaintiff evidence—such as the depositions of eyewitness Maldonado or medical examiner McCubbin—which cast significant doubt on the police officer testimony on which Defendants almost exclusively rely. The exhibits Defendants do offer only highlight rather than resolve the factual disputes: Exhibits M, N, and O to the Sundaran affidavit each offer substantially different reports of how far Rexford Dasrath was from Officer Guzman when Guzman fired, a fact essential to determining whether the use of force was excessive. As your honor readily discerned after reviewing the pre-motion letters, this is simply not a case that is appropriate for summary judgment and Defendants have offered no new material in their motion that might suggest otherwise.

Plaintiff is prepared to respond to Defendants' motion by the agreed-upon date of November 17 unless Your Honor deems it unnecessary and would prefer to rule on the papers already filed. In any event, we respectfully ask the Court to schedule a jury trial date at its earliest convenience, preferably before the end of the year.

We thank Your Honor for your consideration and attention to this matter.

Respectfully submitted,

/s/ Filko Prugo

Filko Prugo

cc: Counsel of Record (via ECF)